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File No. Povl. Munis Corporation II/51 (N).

Legal Department

B **BRANCH**

Subject:— Notifications under the

P-5

Bombay Provincial Municipa

Corporation II/51 (N)

File No. Povl. Munis. Corporation II/51 (N).

Gen. 194 e.

190-B

A revised draft notification is sent herewith.

2. The Bombay Provincial Municipal Corporations Act, 1949, received the assent of the Governor General on 21st December 1949. Ordinarilly the term of office of the present councillors would expire on 21st December 1951 i.e. after the expiry of two years from the date of the passing of the Act (cf. para 2 of R.L.A's opinion No. 677-Confl., dated the 12th July 1951 at page 19 ante). The proposed notification must therefore be issued before 21st December 1951.

Sd. J.R.Dhurandhar.
10/11.

Remembrancer of Legal Affairs.

U.R. to L.S.G. P.H.D. No. 17854, dated the 10th Nov. 1951.

VGP. 5-7-56.

Notification.

Bombay Provincial Municipal Corporations Act. 1949.

Local Self Government and Public Health Department.

Bombay Castle, November 1951.

No. 7001/33. - In exercise of the powers conferred by the proviso to sub-paragraph (2) of paragraph 7 of Appendix IV to the Bombay Provincial Municipal Corporations Act, 1949 (Bombay LIX of 1949), the Government of Bombay is pleased to extend the term of office of the councillors of the Municipal Corporation of the City of Ahmedabad constituted under sub-paragraph (1) of the said paragraph 7, upto and inclusive of the 30th day of April 1952.

By order of the Governor of Bombay,

Secretary to Government.

GSJ / 2/8/56.

Two revised draft notifications in place of L.S.G. & P.H.D. draft pages 35-38 antosre sent herewith.

As the fees are to be prescribed under sub-section (1) of section 419 while the persons by whom the fees are payable are to be determined under sub-section (2) of the said section, it is desirable to issue a separate notification under each of these sub-sections instead of a single notification as proposed by L.S.G. & P.H.D. Accordingly two separate notifications have been prepared.

Para 2 of L.S.G. & P.H.D. note at page 33: The view taken by the L.S.G. & P.H.D. is not correct. There would be occasions where the amount is not specified at the time of making the reference. For instance, under section 232 it is provided that the Commissioner shall pay compensation. An application or a reference under section 405(6) may be made simply for the payment of compensation due and in that case the party concerned may make a reference to the Judge that he is entitled to payment of compensation. Similarly, under section 195 the offending person has to pay the expenses and he may make a reference to the Judge that he is not liable to pay the expenses. In such cases it would not be possible to mention any amount. ~~In such cases~~ Under section 405(6) a reference lies to the Judge regarding the amount or payment of expenses or compensation. Reference may be made under this section not only regarding the amount but regarding payment also and in the latter case no amount need be mentioned. Accordingly it is necessary to prescribe separate fees for references where the amount is not ascertained. Necessary entry is made in the revised draft.

Para 4 of L.S.G. & P.H.D. note at page 34. For the reasons stated above, a distinction between summons in respect of applications orreferences whose amounts are ascertained and whose amounts are not ascertained can be made and ~~ratte~~ rate of summons may be fixed accordingly if the Department so thinks.

Para 2 of L.S.G. & P.H.D. note at page 28.- Both sections 12(3) and 405(1) speak of a reference to be made when a question arises as to whether a Councillor has ceased to hold office. There should, therefore, be objection to mentioning both the sections in the Schedule to the notification. Similarly there should be no objection to mentioning both sections 405(5) and should 439(3) as they speak of a reference to be made on the same matter. Both these section shave accordingly been mentioned in the Schedule to the revised draft.

Sd. J.R.Dhurandhar.
10/11

Remembrancer of Legal Affairs.

U.R. to L.S.G. &P.H.D. No. 17846 dated the 10th November 1951

VGP. 5-7-56.

A revised draft Order in place of the Local Self Government and Public Health Department draft at page 33 ante is sent herewith subject to the following remarks:-

2. The Commercial Attache to the French Embassy in India at Bombay has requested that the French Embassy at Bombay should be exempted from the tax on dogs with effect from 15th August 1947. The Local Self Government and Public Health Department is agreeable to the concession being given with effect from 15th August 1947. It may, however, be pointed out that under sub-section (4) of section 191-A of the Bombay Municipal Corporation Act a tax on dogs is payable for every official year in advance on the 1st day of May. The official year, according to the definition of that term given in clause (bb) of section 3 of the Act, commences on the 1st day of April. It will, therefore, appear that during the year 1947 the tax was payable on the 1st May 1947. It is not, therefore, understood why the Department has proposed the date 15th August 1947. If the Department desires to give the benefit of the notification even during the year 1947 and onward then the proper date on which the notification should come into effect should be the 1st April 1947 but in that case it would be necessary for the Corporation to refund the tax already paid to them. As this course would require consultation with the Corporation, the Department should consider whether the proposed notification should not be given effect from 1st April 1952.

Sd/- ~~J.R.Dhurandhar,~~
10/10

Deputy Secretary to Government.

U.R. to L.S.G. & P.H.D. No. 11103 dated the 10th October 1951.

VGP. 5-7-56.